

WATER COUNCIL MEETING

NH Dept. of Environmental Services
29 Hazen Dr., Concord, N.H.

October 11, 2017
9:00 a.m.

Members present: Chairman Gilbert, Councilors: Boisvert, Butler, Clark, Henderson, O'Brien, Rawnsley, and Tremblay

Members absent: Councilors: Beaurivage, Gegas, Hinds, Hardy, and Joubert

Also present were Carolyn Guerdet, Council Clerk and Peter Demas, Legal Unit

Chairman Gilbert called the meeting to order at 9:02 a.m.

1. Approval of Minutes of the September 13, 2017 Meeting

- ***Councilor Butler made a motion to accept the September 13, 2017 minutes, second by Councilor Boisvert. Motion passed unanimously with Councilor Rawnsley abstaining.***

2. Status of Appeals

Paula Scott presented an update on the following appeals:

I. New Appeals

II. Decision and Orders that need to be written finalized and issued.

Docket No. 16-16 WC Suzanne Fournier, et al. Appeal

Re: 08/22/16 approval of Alteration of Terrain Permit No. AoT-1149 issued to the Town of Milford
Hearing Officer: David Conley assigned on 11/17/16

Recused: Councilor Henderson

Status: September 8, 2016 received Notice of Appeal. October 10, 2016 receipt of Appeal letter. Council accepted the Appeal at their November 9, 2016 meeting. November 9, 2016 issued Appeal accepted letter. December 12, 2016 issued Notice of Pre-hearing Conference scheduled for January 23, 2017 at 10:30 a.m. 1/17/17 received Motion to Intervene from the Town of Milford. 1/23/17 PHC was held, Town of Milford's Motion to Intervene was granted and a hearing was scheduled for April 12, 2017 at 9 a.m. February 8, 2017 received Appearance from Atty. Christopher Aslin for DES. 2/15/17 received Town of Milford's Motion to Remand, etc. 2/17/17 received Appellants' Objection to Town of Milford's Motions and also received their Witness and Exhibit list. 2/23/17 received DES' Witness and Exhibit List. March 6, 2017 received State's First Request for Information from Appellants. March 7, 2017 received Appellant's Request for Information from the State. 3/9/17 received State's Motion to Dismiss. 3/13/17 received Objection to State's Motion to Dismiss. 3/20/17 Hearing Officer requested copies of attachments referenced in Notice of Appeal that were not attached. 3/22/17 received attachments (exhibits) referenced in the Notice of Appeal as requested by the Hearing Officer. April 3, 2017 received State's Motion to Continue Hearing. 4/4/17 issued Order granting State's Motion to Dismiss the Appeal. April 27, 2017 received Appellants' Motion for Rehearing. May 2, 2017 received Objection to Motion for Rehearing. 5/10/17 Council deferred action on the Motion for Rehearing to next meeting for their attorney's opinion. No attorney's opinion has been received. June 14, 2017 Council deferred action on the Motion for Rehearing to the next meeting (9/13/17) for their attorney's opinion.

September 8, 2017 received Appearance from Atty. Richard Head for the Appellants. 9/13/17 Council deferred action on the Motion for Rehearing to the next meeting (10/11/17) for their attorney's opinion. 9/26/17 received Supplement to Appellants' Motion for Rehearing and to Reconsider Order of April 4, 2017. October 2, 2017 received State's Objection to Supplement to Appellant's Motion for Rehearing and to Reconsider Order of April 4, 2017. 10/5/17 received Response to Supplement to Appellants' Motion for Rehearing and to Reconsider Order of April 4, 2017. 10/5/17 distributed draft Order on Motion for Rehearing. Council to act on Order on October 11, 2017.

- ***Councilor Rawnsley made a motion to approve the draft Order, second by Councilor Butler. Discussion was held. Motion passed unanimously.***

III. Hearings or PHCs Pending

Docket No. 16-10 WC (PNA) – Town of Lincoln Appeal

Re: 5/20/16 Administrative Order No. 16-012 WD

Hearing Officer: David Conley assigned on 7/18/16

Status: June 17, 2016 received Notice of Appeal. 6/20/16 issued receipt of Appeal letter. Council accepted the appeal at their July 13, 2016 meeting. 7/13/16 issued Appeal accepted letter. 7/29/16 received Appearance from Attorney General. December 14, 2016 issued Notice of Pre-Hearing Conference scheduled for January 23, 2017 at 11:30 a.m. PHC was held on 1/23/17 with a 2nd PHC scheduled for April 10, 2017 at 9 a.m. April 10, 2017 issued 2nd Pre-hearing Order with deadlines for filing. May 12, 2017 received Assented-to Motion for Extension of Time. 5/15/17 issued letter granting Assented-to Motion. 5/25/17 received Motion for Summary Judgment and Incorporated Memorandum of Law. June 26, 2017 received Objection to and Cross Motion for Summary Judgment and Incorporated Memorandum of Law. July 19, 2017 received Appellant's letter re Intent to submit SurReply to State's reply to Objection. 7/20/17 received DES' Reply to Appellant's Objection to Motion for Summary Judgment. 7/27/17 received Town of Lincoln's SurReply.

Docket No. 17-01 WC (PNA) – Christopher and Rebecca Crowe Appeal

Subject: 12/21/16 Administrative Order No. 16-033 WD

Hearing Officer: David Conley, Esq., assigned on 3/15/17

Status: January 19, 2017 received Notice of Appeal. 1/20/17 issued Insufficient Appeal letter. February 17, 2017 received Revised Notice of Appeal. March 1, 2017 issued Receipt of Revised Appeal letter. Council to accept or decline appeal at their March 8, 2017 meeting. Council accepted Appeal at their March 8, 2017 meeting and issued Appeal accepted letter. April 6, 2017 issued Notice of Pre-hearing Conference scheduled for May 2, 2017 at 9 a.m. 4/12/17 received Appearance for Atty. Christopher Aslin. May 2, 2017 issued Pre-hearing Order scheduling hearing for September 13, 2017 at 9 a.m. August 14, 2017 issued 2nd Pre-hearing Order scheduling a 3rd PHC for Oct. 30, 2017 at 11:30 a.m.

Docket No. 17-03 WC – Town of Hampton, NH Appeal

Subject: 1/13/17 Administrative Order No. 17-001 WD

Hearing Officer: David Conley, Esq., assigned on 3/15/17

Status: February 10, 2017 received Notice of Appeal. 2/15/17 issued Receipt of Appeal letter. Council to accept or decline appeal at their March 8, 2017 meeting. Council accepted Appeal at their March 8, 2017 meeting and issued Appeal accepted letter. April 6, 2017 issued Notice of Pre-hearing Conference scheduled for May 2, 2017 at 10 a.m. 4/12/17 received Appearance for Atty. Mary Maloney. 4/25/17 received DES' Assented-to Motion to Continue. May 1, 2017 issued letter granting Assented-to Motion to Continue. 5/2/17 issued Notice of Pre-hearing Conference scheduled for May 15, 2017 at 9 a.m. 5/11/17 received DES' Assented-to Motion to Continue

Hearing. 5/12/17 issued letter granting Assented-to Motion to Continue and rescheduled PHC to July 17, 2017 at 9 a.m. June 7, 2017 issued letter rescheduling PHC to July 24, 2017 at 10 a.m. July 24, 2017 issued Pre-hearing Order scheduling a 2nd PHC for Oct. 10, 2017 at 9 a.m. and the Hearing for December 13, 2017 at 9 a.m.

Docket No. 17-06 WC – Town of Hampton, NH, North Hampton Water Commission and Town of North Hampton Appeal

Subject: 03/29/17 Administrative Order No. 17-006 WD issued to Wiggin Way home Owners Association AND Aquarion Water Company of NH, Inc.

Hearing Officer: David Conley, Esq., assigned on 5/17/17

Recused member: Councilor Boisvert

Status: April 28, 2017 received Notice of Appeal. May 1, 2017 issued receipt of Appeal letter.

Council accepted the appeal at the May 10, 2017 meeting. 5/11/17 issued Appeal accepted letter.

5/16/17 received Assented-To Motion to Consolidate (Docket No. 17-06 WC and Docket No. 17-07 WC). 5/17/17 received Appearance from Atty. Marcia Brown. 5/18/17 received Motion to Intervene.

5/25/17 issued ruling Granting Motion to Consolidate and Motion to Intervene. 5/25/17

issued Notice of Pre-hearing Conference scheduled for June 12, 2017 at 9:30 a.m. 5/29/17

received State's request to Continue Pre-hearing Conference. 6/7/17 issued letter granting

request and rescheduling PHC for July 24, 2017 at 9 a.m. 6/13/17 received Request to Continue

PHC. 6/15/17 issued letter granting Request to Continue and rescheduling the PHC for Aug. 14,

2017 at 10 a.m. 6/19/17 received Appearance of Attorney Jason Reimers and Assented-To

Petition to Intervene. 6/22/17 issued letter granting Petition to Intervene. August 24, 2017

received Parties agreed to Procedural Schedule and Request to Modify PHO. 8/25/17 issued

letter granting request. September 8, 2017 received Withdrawal of Appearance from Atty.

Christopher Aslin and received and Appearance from Atty. Mary Maloney.

IV. Inactive/Status Letter or Pending Settlement/Withdrawal

3. New Business

a. Env-Wq 402 Groundwater Discharge Permits and Registrations

Stephen Roy and Debra Sonderegger, Drinking Water and Ground Water Bureau

The proposed changes are parallel to proposed changes in wastewater regarding ambient groundwater standard for 1,4 Dioxane. It is hard to treat if treatable at all. It could affect 111 wastewater sites in the state. This tries to allow for incoming and outgoing qualities. Questions from the Council were addressed. The Waste Council input will still be heard and comments made. If there are changes they will return to next month's meeting.

Director Forbes proposed upcoming presentations on the national and state level regarding green initiatives.

b. Env-Wq 2200 Commercial Salt Applicator Certification Program

Ted Diers, Watershed Management Bureau

Ted gave a brief summary. These changes are mostly to clean up original rules. About 44 streams in the state are considered impaired. Private properties put in over 50% of the salt into our water. There is now the NHDES Commercial Salt Applicator Program. There are about 900 certified applicators. These changes mainly initiate a fee as it was previously funded by a grant. Questions were addressed and comments made.

4. Old Business

Director Forbes and Ted Diers addressed the rules regarding groundwater withdrawals. Surface water withdrawals and discharges were discussed. No consistent approach from town-to-town.

Withdrawals are also spread across a number of industries. DES does have the authority to act on complaints.

Councilor Tremblay suggested having a presentation on the Suncook River Restoration at one of the upcoming meetings.

5. Next Meeting

November 8, 2017 at 10:00 a.m. due to the Governor and Council possibly meeting here at DES. December meeting will be at 8 a.m., if the Hearing is held.

6. Adjournment

- ***Councilor Tremblay made a motion to adjourn, second by Councilor Clark.
Motion passed unanimously.***

Meeting was adjourned at 10:27 a.m.